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Agency Secretary
Cal/EPA



Department of Toxic Substances Control

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Arnold Schwarzenegger
Governor

October 6, 2004

Mr. Keith Forman
BRAC Environmental Coordinator
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DEPARTMENT OF TOXIC SUBSTANCES CONTROL CONCURRENCE ON SUITABILITY TO TRANSFER PARCEL A, HUNTERS POINT SHIPYARD, SAN FRANCISCO, CALIFORNIA

Dear Mr. Forman:

The Department of Toxic Substances Control (DTSC) concurs that Parcel A is suitable for transfer to the San Francisco Redevelopment Agency and can we accept that sufficient remedial actions have been taken to protect public health and the environment. Even though DTSC's draft Finding of Suitability to Transfer (FOST) comments relating to lead-based paint remains unresolved, DTSC is able to support the transfer of Parcel A due to the assurances made by the City and County of San Francisco that lead-based paint from structures will be managed in a way that is protective of public health. These assurances were made in a letter to DTSC dated September 30, 2004, from Dr. Rajiv Bhatia, Department of Public Health, Medical Director, Occupational and Environmental Health, City and County of San Francisco.

In our draft FOST comments, DTSC restated our long-standing position that releases of lead to soil constitute Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) releases and that CERCLA Section 120 requires the Navy, in this case, to covenant that all remedial action necessary to protect human health and the environment has been taken. DTSC also requested that the lead-based paint deed restriction specifically apply to non-residential structures and previously demolished structures where residential reuse is planned. Subsequently, DTSC requested that the deed restriction language be further clarified to require soil sampling take place after demolition and removal of debris but prior to any construction, including grading.

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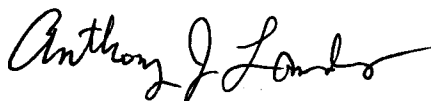
The last two changes to the draft FOST were requested so the deed restriction would provide clear and concise direction to the grantee as to actions necessary to protect public health. In its' September 30, 2004 letter, the City and County of San Francisco committed to meeting these clarifications.

The deed restriction states that the grantee shall be responsible for managing all lead-based paint and potential lead-based paint hazards; including soil lead hazards in compliance with "all applicable federal, state, and local laws and regulations." The letter from Dr. Rajiv Bhatia specifies which local laws and regulations are applicable to the release and potential release of lead-based paint to soil at Parcel A. This clarification is important because, according to the Conveyance Agreement between the Navy and the San Francisco Redevelopment Agency in order for the transfer to occur, the DTSC must assure "sufficient remedial action (including, without limitation, through the use of Environmental Restrictions, as set fourth in Section 15(c), below) has been taken to protect human health and the environment." DTSC is able to accept the lead-based paint deed restriction as sufficient remedial action necessary to protect human health and the environment, as a result of the City and County of San Francisco's administration of lead-based paint-related local laws and regulations. Further, DTSC would like to notify all parties that California Health and Safety Code, Division 20, Chapters 6.5 and 6.8 are also applicable to the release and potential release of lead-based paint to soil at Parcel A. The undersigned expressly reserves all rights and authorities relating to information not contained in the FOST whether such information is known as of this date or is discovered in the future.

We wish to thank the City and County of San Francisco and the Navy for their help in obtaining the assurances necessary to allow DTSC to concur with the Parcel A transfer.

If you have any questions regarding this letter, please contact me at (916) 255-3732.

Sincerely,



Anthony J. Landis, P.E.
Chief
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cc: See next page.

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